

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

RICHARD WAYNE LESLEY,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:10CV02085 ERW
	)	
AL LUEBBERS,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner was sentenced by the state court in 2007. Petitioner attacks his sentences in both State v. Wesley, 07DU-CR00995-01 (35th Judicial Circuit), and State v. Wesley, 07DU-CR01293-01 (35th Judicial Circuit). These sentences are running concurrently with one another, and the post-conviction court combined these cases on post-conviction review. See Lesley v. Missouri, 08DU-CC00016 (35th Judicial Circuit). Petitioner filed a federal habeas petition on December 11, 2008, challenging these two

judgments, which was adjudicated on the merits. See Lesley v. Steele, 4:08CV1928 ERW (E.D. Mo.). Petitioner now seeks to attack the same state court judgments on new grounds.

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition shall be dismissed without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner's motion to proceed in forma pauperis is **GRANTED**.

**IT IS FURTHER ORDERED** that petitioner's petition for writ of habeas corpus is **DISMISSED** without prejudice.

An Order of Dismissal will accompany this Memorandum and Order.

So Ordered this 18th day of November, 2010.



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E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE